

REMARKS

The Examiner's indication of allowable subject matter of claims 8 and 23 is noted with appreciation.

Claims 1-7, 9-22, and 24-38 are pending in the application. Independent claims 1 and 18 have been amended to better define the claimed invention. New claims 39-40 have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/added claims find solid support in the original specification, e.g., paragraphs 0041-0042 of the *published* application. No new matter has been introduced through the foregoing amendments.

The *35 U.S.C. 112, second paragraph* rejection is noted. Applicants respectfully disagree with the Examiner's position, because a person of ordinary skill in the art would clearly understand the claimed invention as requiring pilot strength weaker than a predetermined level, no matter how or in what measuring unit the pilot strength is measured. The claimed invention is thus definite contrary to the Examiner's position. Notwithstanding the above and solely for the purpose of expediting prosecution, Applicants have amended the independent claims to *explicitly* recite the above discussed feature of the claimed invention. Withdrawal of the *35 U.S.C. 112, second paragraph* rejection is now believed appropriate and therefore respectfully requested.

The new *35 U.S.C. 103(a)* rejection is also noted. Basically, the Examiner stated that *Stein* or *Lin* discloses all features of the independent claims, except for the last limitation that "the LD pilot signals are transmitted with a strength which is weaker than that of the reference pilot signal." The Examiner then relied on column 2 lines 55-67 of *Honkasalo* as allegedly teaching the claim limitation, and concluded that it would have been obvious to have modified *Stein* or *Lin* as taught by *Honkasalo* to arrive at the claimed invention. Applicants respectfully disagree with the Examiner's obviousness rationale for at least the following reasons.

First, *Honkasalo teaches away* from the Examiner's proposed combination with *Stein* or *Lin*.

The cited section of *Honkasalo* is reproduced herein below for the Examiner's convenience of review:

In spite of its advantages, the absence of frequency allocation in CDMA systems poses a unique problem in dealing with geographically overlaid, or partially overlaid, networks which are operating within the same frequency band. The IS-95 standard does not place restrictions on the size of cells of a cellular network, thus allowing the operation of overlaid radio communication systems such as the large scale and small scale networks described above. In a CDMA system with overlaid indoor and outdoor networks, intersystem interference results when transmissions in one system appear at the receivers of the other system, causing errors and signal corruption. This problem arises most often due to the relatively higher transmission power of the Outdoor Mobile Stations (OMSs) and Outdoor Base Stations (OBSs) as compared to the Indoor Base Stations (IBSs) and Indoor Mobile Stations (IMSs). An attempt to overcome this problem by boosting the relative power levels of the indoor system would likely only result in increased interference with the outdoor system by the indoor system's transmissions. (*emphasis added*).

As can be seen from the above-reproduced section of *Honkasalo*, the reference discloses that the higher transmission power of the outdoor BS compared to the indoor BS causes the problem of errors and signal corruption. The reference further suggests that the mismatch in transmitting power between the outdoor BS and the indoor BS should be eliminated, i.e., the outdoor BS and the indoor BS should have about the *same* transmitting power. Thus, a person of ordinary skill in the art, learning of the problem associated with the higher transmitting power of outdoor BS would have been discouraged from arranging the *Stein/Lin* system to have higher transmitting power for the outdoor BS. Instead, the person of ordinary skill in the art would have attempted to eliminate the problem mentioned in *Honkasalo* by arranging the *Stein/Lin* outdoor and indoor BSs to have about the *same* transmitting power, i.e., contrary to the Examiner's proposed combination. In other words, the *Honkasalo* reference teaches away from the Examiner's proposed combination with *Stein* and *Lin*.

Second, it is unclear from the language of the Office Action as to how/where *Stein* or *Lin*

discloses or teaches the claim limitation of independent claim 18 (now also in independent claim 1) that “the terminal transmitting information on the received reference pilot signal or the received LD pilot signals to the PDE by using a pilot strength measurement message (PSMM)...”

Applicants note that the Examiner has failed to cite *any* teaching of *Lin* in the Office Action. The rejection relying on *Lin* as a primary reference is therefore improper and should be withdrawn or at least rephrased.

Applicants further note that the Examiner has not cited column and/or line and/or paragraph numbers of *Stein* in support of his allegation that the reference teaches the above-highlighted feature of the independent claims. *See*, for example, page 4, lines 1-2 of the Office Action. Applicants have carefully reviewed the applied reference of *Stein*, yet failed to find any teaching that might disclose or suggest that the terminal transmits a PSMM to the PDE as presently claimed.

It should be noted that a PSMM is generally used in a CDMA system in order to execute a power control or a hand-off of the terminal. By using the pre-existing PSMM for transmitting information necessary for positioning the terminal, the claimed invention avoids the addition of new messages, i.e., new traffic, to the already crowded CDMA system. *Stein* does mention hand-off of terminals. However, the reference does not teach using any message generally used for hand-off to transmit, if at all, positioning information from the terminal. Thus, if *Stein* at all disclosed transmitting any positioning information from the terminal, such positioning information would not be transmitted via the PSMM, unlike the claimed invention. The system of *Stein* is inferior to the claimed system in at least the above-discussed aspect of avoiding the addition of new messages, i.e., new traffic, to the already crowded CDMA system.

For any of the reasons advanced above, Applicants respectfully submit that the obviousness rejections are improper and should be withdrawn. If the Examiner is to sustain the rejections, Applicants respectfully request that the teachings of *Lin* considered to be relevant to all claim

limitations and the teaching(s) of *Stein* considered to be relevant to, at least, the PSMM feature be clearly cited using column/line/paragraph numbers, so that the rejections can be properly understood and responded to. The Examiner is thanked in advance for his cooperation.

The dependent claims, including any new claim(s), are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

As to new claims 39-40, Applicants note that the Examiner is interpreting the repeaters of *Stein*, and perhaps *Lin*, as the claimed LDs. Although the LDs in accordance with disclosed embodiments of the present invention might be incorporated in repeaters as generally shown in FIG. 3 at 304, 302, the present invention is not so limited. New claims 39-40 are directed to the feature that “at least one of the LDs is neither a repeater nor a base transceiver station,” which is neither disclosed, taught nor suggested by any of the applied references which entirely rely on the repeaters for positioning purposes. Therefore, the invention as defined in claims 39-40 is patentable over the applied art of record.

All claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant’s attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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